

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Phyllis A. Reha  
Gregory Scott

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Northern States Power  
Company's Request for Approval of its 2004  
Capital Structure Prior to Issuing Securities

ISSUE DATE: March 25, 2004

DOCKET NO. E,G-002/S-03-1760

ORDER APPROVING 2004 CAPITAL  
STRUCTURE, AS MODIFIED

**PROCEDURAL HISTORY**

On November 3, 2003 NSP filed a petition for approval of its capital structure for issuance of securities in 2004.

On January 2, 2004, the Minnesota Department of Commerce (the Department) filed comments recommending approval with modifications.

On January 19, 2004, Xcel filed reply comments objecting to the Department's proposed modifications.

On March 18, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

**I. BACKGROUND**

Minn. Stat. § 216B.49, Subd. 3 states:

It shall be unlawful for any public utility organized under the laws of this state to offer or sell any security or, if organized under the laws of any other state or foreign country, to subject property in this state to an encumbrance for the purposes of securing the payment of any indebtedness unless the security issuance of the public utility shall first be approved by the commission. Approval by the commission shall be by formal written order.

On October 22, 2002, the Commission issued an Order in the NRG Investigation Docket that, in part, directed NSP to

1. file capital structures annually;

2. in future capital structure or security issuance filings, provide more specific explanations of the purpose for the security issuances than the explanation that funds will be used for general corporate purposes; and
3. address, as part of an annual capital structure or securities issuance filing, the appropriate cost of capital to apply to filings for the next 12 months.<sup>1</sup>

In addition, in an Order issued January 13, 2003 approving Xcel's 2003 capital structure, the Commission stated:

This approval is limited to securities issuances actually contained in the filing including: short-term debt not to exceed 15 percent of total capitalization, the replacement of maturing securities, and the replacement of outstanding long-term debt instruments with less expensive securities that will be replaced dollar-for-dollar, plus the associated fees and issuance expenses.<sup>2</sup>

The January 13, 2003 Order also required Xcel to provide the following information:

- 1) monthly reports on NSP's actual year-to-date capital structure; and
- 2) monthly updates to its service quality plan for the rest of 2002 rather than annually as now required.

## **II. XCEL'S PETITION**

The Company requested

1. approval of the proposed capital structure and total capitalization;
2. restoration of the ability to issue securities within the approved capital structure;
3. flexibility to use risk management instruments to reduce the cost of capital;
4. authorization of a money pool concept contingent upon approval for an upcoming affiliated interest filing to allow for more flexible cash management; and
5. an Order by March 31, 2004, granting approval until issuance of an order approving NSP's 2005 capital structure.

Xcel requested approval of the following projected capital structure:

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<sup>1</sup> See *In the Matter of an Inquiry Into Possible Effects of Financial Difficulties at NRG and Xcel on NSP and its Customers and Potential Mitigation Measures*, DOCKET NO. E,G-002/CI-02-1346, ORDER REQUIRING ADDITIONAL INFORMATION AND AUDIT (October 22, 2002).

<sup>2</sup> See *In the Matter of Northern State Power Company's Request for Approval of its 2003 Capital Structure Prior to Issuing Securities*, Docket No. E,G-002/S-02-1907, ORDER APPROVING CAPITAL STRUCTURE WITH LIMITATIONS (January 13, 2003).

Northern States Power  
Projected Capital Structure for December 31, 2004  
(millions of dollars)

Common Equity	\$1,799	48.1%
Long-Term Debt	<u>1,939</u>	<u>51.9%</u>
Total Capitalization	\$3,738	100.0%

The Company requested a contingency of \$462 million in total capitalization (11 percent), short-term debt not to exceed 15 percent of total capitalization and a 10 percent range around the Company's proposed equity ratio (43.29 percent to 52.91 percent).

Although it does not anticipate the need to issue any long-term debt during 2004, the Company requested authority to issue long-term debt provided the Company remains within the approved capitalization range.

The Company also requested permission to utilize risk management instruments when appropriate to provide an economically efficient means of managing price, duration or interest rate risk on securities.

The Company requested authorization to participate in a Utility Money Pool if the Commission separately approves an affiliated interest filing providing that Agreement.

The Company also requested authority to borrow from its parent, Xcel Energy and stated that that in light of the improved credit outlook at Xcel Energy Inc. an authorization providing more flexibility should be considered. The Company requested removal of the above-cited points from the January 13, 2003 Order in Docket E,G-002/S-02-1907 approving the 2003 capital structure.

### **III. THE DEPARTMENT'S RECOMMENDATION**

The Department recommended that the Commission approve many of Xcel's requests, but deny two.

Based on its analysis, the Department concluded that the Company's most recent available capital structure (as of November 30, 2003) is in compliance with the current Commission Order dated January 13, 2003; that the Company is in compliance with the Commission's October 22, 2002 Order in Docket No. E,G-002/CI-02-1346; that the Company's proposed capital structure for calendar year 2004 is appropriate because it should maintain the financial viability of the Company; that the contingencies requested by the company are reasonable because they will allow the Company the needed financial flexibility while maintaining its financial viability; and that the Company's request for security issuances during the calendar year 2004 is reasonable when combined with the Company's requested contingencies.

The Department recommended that the Commission approve

1. NSP's December 31, 2004 capital structure; this approval will remain in effect until the Commission issues a new capital structure order or March 31, 2005, whichever comes first;
2. a contingency range of +/- 10 percent around the equity ratio of 48.1 percent (i.e., a range from 43.27 percent to 52.91 percent);

3. a total capitalization contingency of \$462 million (i.e., a total capitalization of \$4,200 million);
4. issuance of short-term debt not to exceed 15 percent of its total capitalization;
5. NSP's flexibility request to issue securities provided that the Company remain within the contingency ranges or does not exceed them for more than 60 days; and
6. NSP's flexibility to use risk management instruments that qualify for hedge accounting treatment under SFAS No. 133.

The Department did not support the Company's request for authorization to borrow from its parent or to discontinue order points from the January 13, 2003 Order in Docket E,G002/S-02-1907.

Regarding the Company's request for authorization to borrow from its parent, the Department stated that NSP should not be authorized to borrow from its parent absent specific Commission approval of a Money Pool Agreement. In order to borrow money from its parent, the Department stated, NSP needs both SEC and Commission approval.

With respect to Xcel's requests to discontinue certain requirements of the Commission's January 13, 2002 Order, the Department stated that discontinuance of the restrictive language on securities issuances may be appropriate at some time in the future, but that they should not be discontinued at this time. The Department recommended that the Commission require Xcel to continue to report this information at least until the 2005 capital structure Order is issued, or until March 1, 2005, whichever comes first unless the Commission decides that the provisions are no longer needed.

#### **IV. XCEL'S RESPONSE TO THE DEPARTMENT'S RECOMMENDATIONS**

At the hearing on this matter, Xcel did not oppose any of the Department's recommendations.

While indicating it would prefer that the Commission in this docket grant it authority to borrow from its parent, the Company did not oppose the Department's recommendation in that regard since the issue could be addressed in a separate docket, *In the Matter of a Request by Northern States Power Company d/b/a Xcel Energy for Approval of an Affiliated Interest Contract Between Xcel and Xcel Energy*, Docket No. E,G-002/AI-04-100.

Likewise, the Company did not oppose the Department's recommendation that the Commission maintain the reporting requirements imposed by the Commission's January 13, 2003 Order approving Xcel's 2003 capital structure. The Company noted that its request to terminate those reporting requirements could be taken up subsequently in another, separate docket.

#### **V. COMMISSION ANALYSIS AND ACTION**

Based on the record, including the Department's analysis and the comments of the parties at the hearing, the Commission is persuaded to accept the Department's reasonable recommendations.

Although Xcel stated that it would prefer that the Commission rule in this Order that it can borrow from its parent, the Company did not oppose the Department's recommendation on this issue and it appears to the Commission appropriate to address the changes sought by Xcel in a separate docket.

Accordingly, the Commission will approve NSP's December 31, 2004 capital structure as specified in the Order paragraphs, defer the issue of NSP borrowing from its parent to the docket reviewing the Company's affiliated interest Money Pool Agreement, and maintain in effect the two filing requirements challenged by NSP in its petition.

Finally, the Commission clarifies with respect to Order Paragraph 9 that this Order does not impose a \$275 million cap on the Company's revolving credit facility. The Commission recognizes that the size of the facility will fluctuate, perhaps exceeding \$275 million as the funds are replaced, due to the plus or minus (-/+ ) ten percent contingency range requested by the Company, recommended by the Department, and approved by the Commission in this Order. See Order Paragraph 1,b.

### **ORDER**

1. The Commission hereby approves
  - a. NSP's December 31, 2004 capital structure; this approval will remain in effect until the Commission issues a new capital structure order or March 31, 2005, whichever comes first;
  - b. a contingency range of +/- 10 percent around the equity ratio of 48.1 percent (i.e., a range from 43.27 percent to 52.91 percent);
  - c. a total capitalization contingency of \$462 million (i.e., a total capitalization of \$4,200 million);
  - d. issuance of short-term debt not to exceed 15 percent of NSP's total capitalization;
  - e. NSP's flexibility request to issue securities provided that the Company remain within the contingency ranges or does not exceed them for more than 60 days;
  - f. NSP's flexibility to use risk management instruments that qualify for hedge accounting treatment under SFAS No. 133.
2. The Commission will permit NSP to borrow from its parent only as the result of a future Commission approved affiliated interest Money Pool Agreement. The issue of whether NSP will be allowed to borrow from its parent is deferred to Docket No. E,G-002/AI-04-100 for consideration.
3. The two specific filing requirements addressed in NSP's petition from the Commission's January 13, 2003 Order in Docket No. E,G002/S-02-1907 are included in NSP's 2004 Capital Structure Order —
  - a. Order Paragraph 1, last bullet on page 4, which states:

This approval is limited to security issuances actually contained in the filing including: short-term debt not to exceed 15 percent of total

capitalization, the replacement of maturing securities, and the replacement of outstanding long-term debt instruments with less expensive securities that will be replaced dollar-for-dollar, plus the associated fees and issuance expenses.

- b. Order Paragraph 2,h on page 4, which requires NSP to provide the following information: 1) monthly reports on NSP's actual year-to-date capital structure; and 2) monthly updates to its service quality plan for the rest of 2004 rather than annually as now required.
- 4. The Commission approves Xcel's renewal or replacement of its \$275 million 364-day revolving credit facility with a debt instrument that includes an extension or "roll-over" right.
- 5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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